

**CITY COUNCIL OF THE CITY OF SAN DIEGO
SPECIAL CLOSED SESSION DOCKET
FOR
MONDAY, JUNE 7, 2004
AT 2:00 P.M.**

NOTE: In accordance with the San Diego City Council Temporary Rule for Noticing and Conduct of Closed Session Meetings, adopted on March 29, 2004, a portion of the regular open meeting agenda of the City Council has been reserved for City Attorney comment, public comment, and City Council discussion of the content of this Closed Session Docket. Please see the Open Session Agenda to determine when such matters may be heard.

Due to the anticipated length of the regular City Council meeting for June 7 and 8, 2004, and in consideration of the number of items on the Closed Session agenda for June 8, 2004, the Mayor is calling a Special Closed Session meeting for Monday, June 7, 2004, in the Committee Room on the 12th Floor of the City Administration Building, 202 C Street, San Diego, California. The Special Closed session will commence immediately following the conclusion of the regular open session meeting that day.

Pursuant to the new temporary Council Rule on closed sessions, the public will have the opportunity to comment on these matters during the regular open session of the City Council on June 7, 2004. The open session agenda for that day will reflect the appropriate open session item for public comment. The closed session called pursuant to this memorandum may continue into Tuesday, June 8, 2004.

The agenda for the Special Closed Session is the following:

Conference with Legal Counsel - existing litigation, pursuant to California Government Code section 54956.9(a):

CS-1 State Route 56 Corridor:

City of San Diego v. D.R. Horton
San Diego Superior Court No. GIC 777603-1

City of San Diego v. Barratt American/Barczewski
San Diego Superior Court No. GIC 771613-1/GIC 794498

City of San Diego v. Apogee Investors
San Diego Superior Court No. GIC 777606-1

City of San Diego v. Barratt American/Lee Living Trust
San Diego Superior Court Case No. GIC 771344-1

City of San Diego v. Gondor
San Diego Superior Court Case No. GIC 777604-1

City of San Diego v. DMIG Fund 47
San Diego Superior Court Case No. GIC 777605-1

City of San Diego v. Gonsalves
San Diego Superior Court Case No. GIC 771345-1

City of San Diego v. Lin, Kasai, et al.
San Diego Superior Court No. GIC 771354-1

DCA assigned: Claudia Silva

These matters involve eminent domain cases for State Route 56. In closed session, the City Attorney will report on the status of the cases, and remaining issues relating to their resolution.

CS-2 *Chargers Football Company, LLC v. City of San Diego*
Los Angeles Superior Court Case No. BC 306758

ACA assigned: Les Girard

This matter concerns the litigation filed by the San Diego Chargers [Chargers] against the City of San Diego [City], and the City's related cross complaint against the Chargers, over the validity of the "trigger" notice delivered to the City by the Chargers in March of 2003 pursuant to the 1995 agreement for the use of Qualcomm Stadium [1995 Agreement]. In closed session, the City's outside litigation counsel and the City Attorney will report on the status of the litigation and the status of any additional discussions with the Chargers concerning the term sheet authorized by the City Council on April 26, 2004, to be conveyed to the Chargers. The City Council may give further direction to its attorneys and consultants with regard to the matter.

CS-3 *Gleason v. San Diego City Employees' Retirement System*
San Diego Superior Court Case No. GIC 803779

HDCA assigned: Chris Morris

This matter involves litigation concerning the City's retirement system and the City's obligation to fund that system. A tentative settlement has been reached with the plaintiffs, the terms of which generally involve certain payments by the City to the system in each of Fiscal Years 2005, 2006, 2007 and 2008. In closed session, the City Attorney and the City's outside counsel will report to the City Council on the conduct of negotiations to finalize a settlement agreement, and the status of the court proceedings to implement the settlement.

CS-4 *Border Business Park v. City of San Diego*
Appellate Case No. D039225; SDSC Case No. GIC 692794

Otay Acquisitions v. City of San Diego
SDSC Case No. GIC 753247

National Enterprises, Inc. v. City of San Diego
SDSC Case Nos. GIC 791407; GIC 805465

ACA assigned: Les Girard

These matters involve a variety of disputes between certain companies owned or controlled by Roque de la Fuente and the City of San Diego [City] regarding the Border Business Park in Otay Mesa. The Border Business Park case resulted in a jury verdict against the City which is now on appeal. The National Enterprises and Otay Acquisitions cases are currently awaiting trial in the Superior Court. In closed session, the City Attorney will report on the status of on-going settlement negotiations and request further direction regarding those negotiations.

CS-5 *San Diego Police Department vs. City of San Diego, et al.*
San Diego Superior Court No. GIC814284

HDCA assigned: Chris Morris

This case involves a claim from the San Diego Police Officer's Association regarding the Police Department's past promotional policies. The Council will be briefed on the litigation and the terms and conditions of a potential settlement.

Conference with Legal Counsel - anticipated litigation - initiation of litigation, pursuant to California Government Code section 54956.9(c):

CS-6 *City of San Diego v. County of San Diego*

DCA assigned: Yolanda Gammill

This matter concerns a dispute between the City of San Diego [City] and the County of San Diego [County] over the County's failure to reimburse the City for laboratory fees and costs collected by the County in criminal court cases. In closed session, the City Attorney will advise the City Council about the dispute and seek direction as to what action, if any, the City should pursue in attempting to resolve it.

Conference with Legal Counsel - anticipated litigation - significant exposure to litigation, pursuant to California Government Code section 54956.9(b):

CS-7 *Michael Shames vs. City of San Diego*

HDCA assigned: Frank Devaney

Michael Shames filed a claim with Risk Management on April 30, 2004, alleging that the City has overcharged residential users of the sewer system for the past sixteen years and seeking refunds for all such overcharges paid during the last four years. The City Attorney will advise the City Council in closed session on the merits of the claim.

Conference with Real Property Negotiator, pursuant to California Government Code section 54956.8:

CS-8 Property: Qualcomm Stadium

City Negotiator: Councilmember Michael Zucchet, Assistant City Attorney Leslie J. Girard, Deputy City Manager Bruce Herring, Paul Jacobs, Esq., Robert Kheel, Esq., and Daniel S. Barrett

Negotiating Parties: City of San Diego and the San Diego Chargers

Under Negotiation: Real Property Interests at the Qualcomm Stadium Site pursuant to the recommendations of the Citizens' Task Force on Chargers Issues, and pursuant to the terms of Paragraph 31 of the 1995 Agreement for the Partial Use and Occupancy of Qualcomm Stadium.

ACA assigned: Les Girard

This matter involves negotiations authorized by the City Council in March of 2003 between the City of San Diego [City] and San Diego Chargers [Chargers] regarding the Qualcomm Stadium site, pursuant to both the recommendations of the Citizens' Task Force on Chargers Issues and the "Trigger Notice" sent to the City by the Chargers in March of 2003.

In closed session, the City's negotiating team will report to the City Council on the status of any discussion with the Chargers concerning the term sheet authorized by the City Council on April 26, 2004, to be conveyed to the Chargers.

Please see the description on the closed session agenda under "pending litigation" — Chargers Football Company, LLC v. City of San Diego for a description of a related matter.